

COMPLAINT INVESTIGATION SUMMARY

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| COMPLAINT NUMBER: | 2142.04 |
| COMPLAINT INVESTIGATOR: | Susan Reimlinger |
| DATE OF COMPLAINT: | May 27, 2004 |
| DATE OF REPORT: | June 22, 2004 |
| REQUEST FOR RECONSIDERATION: | no |
| DATE OF CLOSURE: | October 15, 2004 |

COMPLAINT ISSUES:

Whether the MSD of Lawrence Township violated:

511 IAC 7-25-5(e) by failing to allow private consultants to observe the student in the classroom as part of an independent educational evaluation obtained and paid for by the parent.

FINDINGS OF FACT:

1. The student (Student) is an elementary age child, and is eligible for special education and related services as a student with a visual impairment. The Student participates in a public elementary school building.
2. The email of December 16, 2003, from the parent to the building principal indicates that the parent made multiple unsuccessful attempts to schedule a parent observation, and references one parent observation that did occur on October 14, 2003. There is no reference to any outside professionals or private consultants being involved in these observations.
3. The email of February 29, 2004, from the parent to the Director references the parent's attempt to have "an outside vision professional, to observe the two IEP mandated vision services required [to] be provided to [Student]..." No documentation was submitted by the complainant to indicate that the parent was in the process of obtaining or planning to obtain an independent educational evaluation at the parent's expense.
4. While the email of January 15, 2003, from the Director to 170 school employees is about "support waiver services," it has been submitted as one document used as guidance for "outside professionals" and states that "outside professionals that come into our school setting are visitors. They are visitors and the TOR must decide if school is in agreement or not with the visit." It also states that school staff has been "told by a [waiver case manager] that someone such as a behavior consultant will come into the school to observe and develop a program for the school to follow...That is incorrect...In most cases it will be in everyone's best interest to collaborate with the [case managers] and Outside Professionals but at the same time, visits during the instructional day should be limited and never interrupt service delivery."
5. The email of February 27, 2004, from the Director to the parent states that "our prior practice, implemented last school year has been to deny the request of parents to have outside specialists come into the school setting to just observe, evaluate or to provide us with another plan to follow for a child if we have not requested the consultation services."

6. No documentation was submitted to indicate the school's efforts to assist in successfully scheduling an observation or collaborative meeting of any type with the parent's private consultants.
7. The school policy titled "independent evaluations" lists eight professional sources from which parents may obtain an independent educational evaluation. It states that "the independent educational evaluation will not take place in the student's school setting."
8. The letter of May 20, 2004, from the Director to the parent responds affirmatively to the parent's request at a May 12, 2004, school conference for an independent vision evaluation at the school's expense.

CONCLUSIONS:

1. Findings of Fact #2, #3, and #8 indicate that the parent has not informed the school that the private consultants' observation was part of an independent evaluation being conducted at the parent's expense. Article 7 does not require that a parent provide such notice to a school. The parent's right to an independent educational evaluation, even at the parent's expense, is a procedural safeguard. The school cannot institute a policy that limits access. Findings of Fact #4, #5, and #6 indicate that the school has a variety of policies and procedures regarding outside professionals visiting their school buildings that appear to be inconsistent in content and in application. Therefore, a violation of 511 IAC 7-25-5 (e) is found. In addition, Finding of Fact #7 indicates that the School's independent educational evaluation policy is inconsistent with IDEA (Individuals with Disabilities Education Act) and Article 7 and thus non-compliant. Given where the School is located, there is no justification for maintaining a list of only eight (8) independent examiners. In order to require parents to select from this list, the list must be exhaustive within the School's geographic area. Therefore, additional corrective action is warranted.

The Department of Education, Division of Exceptional Learners requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

MSD of Lawrence Township shall:

1. Ensure that the private consultants are allowed to observe the student within the first 20 instructional days of the 2004-2005 school year. Documentation that the observation(s) occurred shall be sent to the Division no later than September 30, 2004.
2. Revise policy(ies) regarding independent educational evaluations to be compliant with Article 7. A copy of the revision(s) shall be submitted to the Division no later than September 15, 2004. After the Division reviews and approves the revision(s), conduct in-service training regarding the revision(s). Documentation of who was trained and how the training was conducted must be sent to the Division no later than December 17, 2004.